

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
A Petition to Revise)
Part 73.1250(h) of) RM-
the Rules of the)
Mass Media Bureau)

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PETITION FOR RULE MAKING

Pursuant to Section 1.401 of the Commission's Rules, the Great River Valley Chapter of the Coalition of Citizens with Disabilities in Illinois (Petitioners) hereby submits this Petition for Rule Making on the above-captioned matter to amend the language of Part 73.1250(h) of the Mass Media Bureau Rules.¹ In particular, Petitioners desire mandatory video description of emergency weather bulletins on television. Specifically, Petitioners request that the Commission amend the language of 73.1250(h) to read as follows:

Under the requirements of this section, any emergency information as defined in Part 73.1250(a) transmitted by a TV station shall be transmitted both aurally and visually even if such transmission is not being conducted under a national, state or local level EAS plan. TV stations may use any method of visual presentation....The aural message must be simultaneous² or near simultaneous with the visual presentation.

¹ The Coalition Chapter is a non-profit organization representing approximately 50 people and is located in Alton, Illinois. Robert W. Fleming has been its President since 1990. The statewide Coalition is located in Springfield, Illinois and represents some 1400 members of the disabled community.

² See 47 C.F.R. Section 73.1250(h) (1985). The current language is as follows: "Any emergency information transmitted by a TV station in accordance with this section shall be transmitted both aurally and visually or only visually. TV stations may use any method of visual presentation which results in a legible message conveying that essential emergency information. Methods which may be used include, but are not necessarily limited to, slides, electronic captioning, manual methods (e.g., hand printing) or mechanical printing processes. However, when emergency operation is being conducted under a national, State or local level Emergency Alert System (EAS) plan, emergency information shall be transmitted both

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I. Introduction

The broadcasting of emergency weather messages has changed substantially over the years since the Commission's ruling to amend Part 73 and require captioning of such messages on television.³ Many Emergency Broadcast System, now Emergency Alert System (EAS) messages initiated from central networks rather than individual stations. The development of meteorological forecasting systems now gives local broadcasters greater ability to pinpoint specific weather activity in a given region. The visually impaired are a substantial segment of the population.⁴ They should have the same access as any sighted viewer to that information deemed important enough to merit broadcasting as an "emergency".

Petitioners are concerned with the manner in which local TV broadcasters air emergency weather bulletins. When a storm is approaching the area, St. Louis metropolitan TV broadcasters air a written crawl at the bottom of the screen. It often accompanies a small map of the affected county or region. These crawls run several times an hour, but are not accompanied by any audio translation.⁵ Local TV

aurally and visually unless only the EAS codes are transmitted as specified in Section 11.51 of this chapter."

³ See 61 F.C.C.2d 18 (1976).

⁴ Among person 15 years old and over, 9.7 million had difficulty seeing words and letters in ordinary newsprint even when wearing corrective lenses. Of these, 1.6 million could not see such letters at all. Estimates of those in the population who are visually impaired run between 8 and 12 million. Those considered "legally blind" are estimated at 1,100,000. Source: "Prevalence Estimates of Blindness and Visual Impairment in the United States: Early 1990's" Prepared by Social Research Group, American Foundation for the Blind. Updated September 1994.; McNeil, John M., "Americans with Disabilities: 1991-92", United States Bureau of the Census Current Population Reports, P70-33, United States Government Printing Office, Washington, DC 1993.

⁵ It is when the National Weather Service issues a weather "watch" that the crawl is triggered. Beyond that, such as for a warning, local broadcasters are likely to announce such weather with on-air personnel,

3

stations were in the habit of preceding the crawl with a three-tone alert signal announcing to the viewer that the message was forthcoming. In Spring 1995, Petitioners noticed that stations omitted this signal.⁶ Previously, visually impaired viewers could not know the contents of the written bulletin, but they were aware that something urgent was being communicated. Now they are even unaware of the upcoming visual bulletin. The lack of simultaneous video description places them at a significant disadvantage over others without visual disabilities.

The Commission addressed this issue generally in 1970, and has since done so primarily on behalf of the hearing-impaired community.⁷ We are mindful that to many the idea of a visually-impaired person "watching" television seems absurd. But the last several years have seen the growth of services such as Descriptive Video Service (DVS) and the Narrative Television Network.⁸ The Commission's recent changes to Part 73, Subpart G, now the Emergency Alert System (EAS), take into account the needs of the visually impaired.⁹ And the Commission has very recently issued a

but it is Petitioners' experience that the crawl occurs more often alone, or a small map-like icon will stay on during regular programming. With the recent winter storms, school closings were often listed without any simultaneous audio list. When referring to local TV broadcasters, Petitioners include KMOV-4(CBS), KSDK -5(NBC), KTVI -2 (Fox) and KDNL- 30 (ABC).

⁶ Petitioners have written to all stations but only one broadcaster has agreed to reinstate the attention signal.

⁷ See 26 F.C.C.2d 916. In Re Petition of Nancy Lipschultz, I.A.D. Chicago TV Committee, RM-1600, December 16, 1970.

⁸ DVS began operating in 1990, available then on approximately 30 Public Broadcasting Service (PBS) stations through the program "American Playhouse". It has since grown to 130 PBS stations and reaches 70% of US TV households through WGBH-TV. It may only be accessed, however, through a television equipped with Second Audio Program (SAP) capability. The Narrative Television Network, started in 1988 and is based in Tulsa, Oklahoma. It is a for-profit company which adds narration to existing dialogue. This enhanced programming is available on cable's Nostalgia and Family Channels, among others.

⁹ See 59 F.R. 67090 for a synopsis of the Report and Order, Docket 91-171/91-301, released December 9, 1994.

Notice of Inquiry specifically targeting the issue of access to TV programming by persons with visual and hearing disabilities.¹⁰

II. The Commission Presently Expresses A Policy Supporting Simultaneous Aural and Visual Transmission Of Emergency Information

Currently, under 73.1250(h), transmission of emergency information "shall be transmitted both aurally and visually", but television licensees may opt out of its requirement by not activating any EAS plan. They can merely air emergency information as a community service and bypass 73.1250(h) requirements.¹¹

This Petition seeks to build on policy expressed by the Commission beginning in 1970 with RM-1600.¹² In the Public Notice which followed the filing, members of the Commission urged that stations could adopt "presentation techniques which could assist a segment of our population suffering from a significant handicap, and make the tremendously powerful television medium more useful to them...without interfering with station's service to its general audience...".¹³

The issue next arose in 1975 with the filing of a Petition again on behalf of the hearing impaired seeking to require TV stations to air all emergency notifications

¹⁰ See Notice of Inquiry, "In the Matter of Closed Captioning and Video Description of Video Programming", MM Docket No. 95-176, released December 4, 1995.

¹¹ Id. at 67100. See also, 11.55(a), "The Emergency Alert System may be activated at the State or Local Area levels by broadcast stations and cable systems at their discretion for day-to-day emergency situations posing a threat to life and property." (emphasis added).

¹² See 26 F.C.C.2d at 918. (1970).

¹³ Id., at 918.

visually as well as aurally.¹⁴ The subsequent Report and Order required all television stations to transmit emergency bulletins visually as well as aurally but left visual presentation to the licensee's discretion.¹⁵ The Report and Order did not require simultaneous transmission of the visual and aural information, actually concerned that preparation of the visual notice could delay the aural broadcast.¹⁶

Broadcasters argued, however, that the requirement would discourage stations from airing emergency messages. Upon reconsideration, while the aural and visual requirement was retained for any EBS (now EAS) activation, the licensee was given discretion at all other times. The Commission did indicate its awareness of the needs of the visually-impaired community.¹⁷ Members expected that licensees would make "timely aural announcement for the benefits of persons with visual handicaps".¹⁸

Public Notices issued prior to recent EAS changes have expressed the Commission's view that broadcasters' obligation under 73.1250(h) "cannot be avoided because the emergency information is broadcast during regularly scheduled programming or is characterized as news or public

¹⁴ See 57 F.C.C.2d 99. Then, Part 73.675(b) stated at its conclusion, "Both the aural and visual transmission of all emergency notification messages shall conclude with the following request: 'If you have hearing-impaired or blind friends or neighbors, please pass this information on to them.'" *Id.* at 104.

¹⁵ See 61 F.C.C.2d at 19.

¹⁶ *Id.* at 20.

¹⁷ See 62 F.C.C.2d 565 (1977).

¹⁸ Comments filed apparently indicated TV broadcasters' "willingness to carry companion aural announcements when captioning for critical emergencies". *Id.* at 566.

6
affairs. It is the act of transmitting the emergency
information that triggers the rule."¹⁹

III. The Public Interest is Significantly Served By Video Description of Emergency Weather Bulletins

With anywhere from 8 - 12 million visually impaired persons in the United States, the audience that could benefit from mandatory video description of emergency weather bulletins is substantial. The Narrative Television Network estimates that it reaches some 10 million television households. DVS now reaches viewers over some 130 public television stations.

The Commission's own NOI acknowledges the inability of those with visual (and hearing) disabilities "to enjoy fully television programming..."²⁰ The House of Representatives and Senate have each passed bills in which the Commission is charged with investigating the issue of mandatory video description and the feasibility of adopting technical and quality standards.²¹

Given all this activity, there can be no question but that the need for mandatory video description of emergency information is the most crucial aspect of access to television programming by the visually impaired.²²

¹⁹ See Public Notices, September 27, 1990, September 4, 1992; "Commission Reminds Television Licensees About Obligations Contained In Section 73.1250(h) Of The Commission's Rules Regarding The Broadcasting Of Emergency Information"

²⁰ Notice of Inquiry, at 1.

²¹ H.R. 1555, 104th Cong., 2d Sess. § 204 (1995); S. 652. 104th Cong., 2d Sess. § 308 (1995). See H.R. 1555 at § 204(f) and S. 652 at § 308(b).

²² The Commission has also indicated its consideration of the Americans with Disabilities Act which does in Title IV mandate the closed captioning of public service announcements for the hearing impaired but does not specifically address the needs of the visually impaired. See 47 U.S.C. 611 (1992).

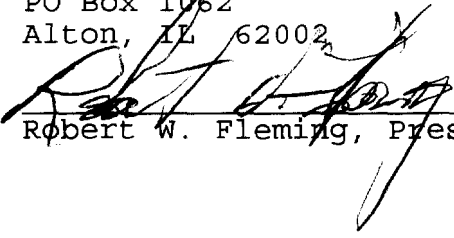
IV. Conclusion

For the foregoing reasons, Petitioners request that the Commission grant its Petition and initiate a rule making proceeding to amend the language of 73.1250(h) and require video description of emergency weather bulletins as described in 73.1250(a).

In the alternative, Petitioners request that this Petition be consolidated into the current Notice of Inquiry and allow the issue of mandatory video description to be considered in light of submitted Comments.

Respectfully submitted,

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